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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,491	10/21/2003	Gregory Aaron Dean	B0932.70221US00	5070

23628 7590 12/14/2004

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BOSTON, MA 02210-2211

EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,491

Applicant(s)

DEAN ET AL.

Examiner

J. Allen Shriver

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 5,7,8,22-25 and 36-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,9-11,18-21,26,27 and 33-35 is/are rejected.
- 7) ☒ Claim(s) 12-17,28-32 and 40-43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/30/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species 2 (claims 1-4, 6, 9-21, 26-35 and 40-43) in the reply filed on December 1, 2004 is acknowledged.

Claim Objections

2. Claim 1 is objected to because of the following informalities: In line 4, the word "a" should be changed to either "said" or "the" because the "snowboard" was previously set forth in line 2. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Maravetz et al. (US Patent 6,394,484 B1).** Maravetz et al. discloses a snowboard binding (See Figs. 2-4) comprising a base (12) constructed and arranged to be mounted to a snowboard (3) and to support at least a portion of a bottom of a rider's foot (See Fig. 1), the base having a bottom surface that is adjacent a snowboard top surface when the base is mounted to the snowboard (See Fig. 4); at least one engagement member (34) constructed and arranged to

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extend across the rider's foot and secure the rider's foot to the base (See Fig. 4); a heel hoop (24) extending from the base and constructed and arranged to extend around a rider's heel when the rider's foot is positioned in the binding, the heel hoop having an uppermost portion and a rearward portion (See Fig. 4); and a rear support member, including a highback (26), constructed and arranged to support a rear portion of the rider's leg, the rear support member being moveable between a riding position in which the rear support member is arranged to support the rear portion of the rider's leg (See Fig. 4) and a folded position in which all portions of the rear support member are positioned at a height from the bottom surface of the base that is less than the height of an uppermost portion of the heel hoop from the bottom surface of the base (See the attached Examiner's modified Figure 4, where in the folded position, the rear support member is positioned at a height below the uppermost portion of the heel hoop); [claim 9] wherein the base has a toe side opposite a heel side, and the highback is movable from the riding position in a direction toward the toe side of the base to the folded position (See Fig. 4 and Examiner's attached modified Figure 4); [claim 10] wherein the engagement member is a variable length strap; [claim 11] further comprising sidewalls (22) on opposite sides of the base and extending in a heel-to-toe direction.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. **Claims 2-4, 6, 18-21, 26-27 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maravetz et al. (US Patent 6,394,484 B1).** Maravetz et al. discloses the snowboarding at set forth above, but does not expressly disclose **[claims 2-3, 6, 20-21 and 33-34]** wherein all portions of the rear support member and the heel hoop are positioned within a height of at most 3/2.75/2.5 inches, respectively, from the bottom surface of the base when the rear support member is in the folded position and **[claims 4, 18-19 and 35]** wherein the highback is pivotally mounted relative to the base at a position no more than (about) 0.75 inches from the bottom surface of the base and no more (about) than 2.25 inches from the rearwardmost portion of the heel hoop. Examiner is precluded from precisely determining the exact measurements for the binding disclosed in Maravetz et al. because the drawings are not to scale, nor is a legend provided to determine the scale. However, at the time of the invention, it would have been obvious to a person of ordinary skill in this art to make the rear support member and heel hoop disclosed in Maravetz et al. no more than 2.5 inches from the bottom surface of the base when in the folded position and additionally position the pivot for the rear support member at no more than 0.75 inches from the bottom surface of the base and no more than 2.25 inches from the rearwardmost portion of the heel hoop. Applicant has not disclosed that providing these exact measurements provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the location and measurements set forth in Maravetz et al. because the highback disclosed in Maravetz et al. when in the folded position is always below the height of the uppermost portion of the heel hoop, which is the primary goal of Applicant's binding. Therefore, it would have been obvious to one of ordinary skill in this art to modify the binding

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disclosed in Maravetz et al. to obtain the invention as specified in claims 2-4, 6, 18-21, 26-27 and 33-35.

Regarding claim 26, Maravetz et al. discloses wherein the highback is movable between a riding position and a folded position, the base has a toe side opposite a heel side, and the highback is movable from the riding position in a direction toward the toe side of the base to the folded position (See Fig. 4 and the attached Examiner's modified Figure 4).

Regarding claim 27, Maravetz et al. discloses wherein the engagement member is a variable length strap constructed and arranged to engage with a rider's foot.

Allowable Subject Matter

7. Claims 12-17, 28-32 and 40-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or

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relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

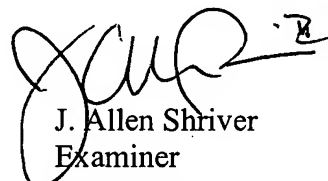
As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thursday, December 09, 2004

 12/9/04
J. Allen Shriver
Examiner
Art Unit 3618

JAS

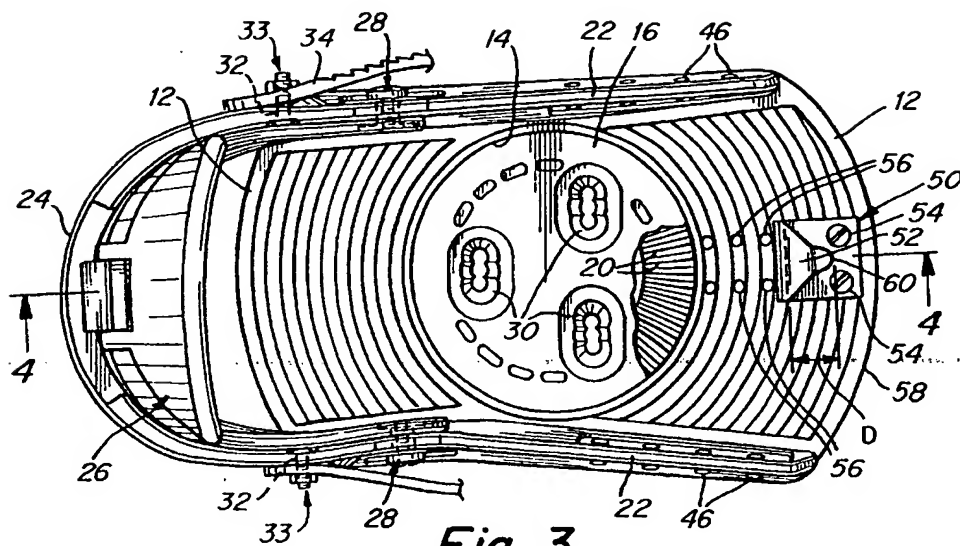


Fig. 3

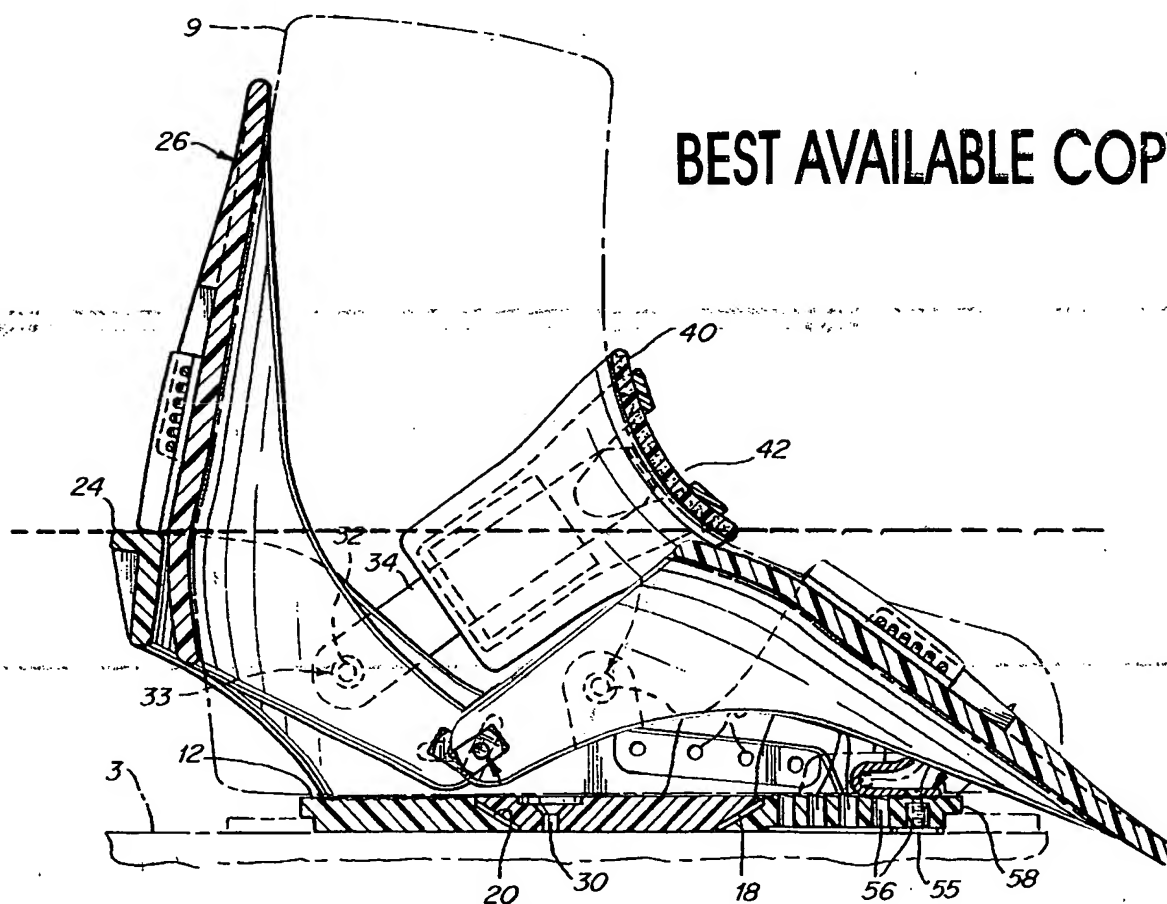


Fig. 4

Modified Fig. 4

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